

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

2. However, the petitioners later received a bill for \$467 from one of the doctors who had treated their daughter that day in the emergency room.

3. OVHA has notified the petitioners that the service cannot be separately covered by Medicaid because the doctor is not enrolled as a Vermont Medicaid provider.

4. The Department has contacted the doctor and offered to cover the service under Medicaid if the doctor would enroll as a Vermont provider. In its communication the Department told the doctor that enrollment is a simple and cost-free procedure, but the doctor has nonetheless declined to enroll.

5. There is no dispute that neither the hospital nor OVHA explained to the petitioners that the hospital and the physician would bill them separately for the emergency room services their daughter received that day. However, the petitioners do not allege that OVHA was aware in advance of the hospital's billing policies.

ORDER

The Department's decision is affirmed.

REASONS

The Medicaid regulations specifically preclude payments for "items and services ordered by an individual not enrolled as a Medicaid provider". W.A.M. § M151.1(I). The regulations define providers as those "currently approved to

provide medical assistance to a beneficiary pursuant to the Vermont Medicaid Program". Id. § M155.1. Moreover, § M152 provides that Medicaid payments cannot be made directly to a recipient.

In this case, the petitioners do not dispute the Department's representation that the provider in question is not and has refused to become enrolled in Vermont Medicaid, and there is no question that the Department's decision not to cover the services in question under Medicaid is supported by the regulations. Although it may be harsh to, in effect, require Medicaid recipients to bear the financial risks of health treatment when they travel, it cannot be concluded that limiting Medicaid coverage to enrolled providers is either fundamentally unfair or contrary to public policy.

To his credit, OVHA's attorney has informed the doctor's billing department that it may be estopped from any collection against the petitioners for this bill due to the providers' failure to inform the petitioners in advance that this doctor will not accept Vermont Medicaid--a position with which the hearing officer agrees. However, inasmuch as there is no claim or showing that OVHA either failed to follow its regulations or was otherwise negligent in inducing the petitioners to obtain the services in question, the Board is

bound to affirm the Department's decision in this case. 3

V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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